

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
JUNE 7, 2006**

CALL TO ORDER

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Charles Lapp, Don Hines, Kathy Robertson, Jeff Larsen, Gene Dziza, Randy Toavs, Gordon Cross, and Frank DeKort. Kim Fleming was absent. Eric Giles, Rebecca Shaw, and Jeff Harris represented the Flathead County Planning & Zoning Office.

There were approximately 12 people in the audience.

**APPROVAL OF
MINUTES**

No minutes were approved.

PUBLIC COMMENT
*(Not related to
agenda items)*

Russ Crowder spoke about the following on his own behalf: he brought up Commissioner Hall's letter regarding the Planning Board and their public service and he read a letter of his own. Then, on behalf of American Dream Montana, he talked about illegal impact fees and the patience his organization has had. He said they have run out of patience and will soon be taking action.

PUBLIC REVIEW

Jeff Larsen reviewed the public hearing process for the public.

**PRELIMINARY
PLAT/CABERNET
ESTATES NO. 5
FPP 06-19**

A request by Cabernet Estates, LLC, for Preliminary Plat approval of Cabernet Estates No. 5 Subdivision, an eight (8) townhouse residential lots on 5.508 acres. All lots in the subdivision are proposed to have public water and sewer systems. The property is located at 324, 332, 340 and 348 Chapman Lane.

STAFF REPORT

Eric Giles reviewed Staff Report FPP 06-19 for the Board.

**BOARD
QUESTIONS**

DeKort asked what the BLUAC's recommendation was.

Staff said they voted unanimous approval and requested they investigate vehicle trips on Chapman Hill Rd.

Robertson asked about the cash-in-lieu amount and how it's calculated.

Hines asked how many people were in attendance at the BLUAC meeting.

Staff replied 5 of 7 members were present for the unanimous vote.

Cross asked for clarification on the lots being created and asked if there was any new dedicated open space.

Staff said they're using previously dedicated parkland as open space.

APPLICANT	<p>Mike Fraser, of TDH, represented the applicant. He briefed the Board on Pine Lake Estates and talked about density and minimum lot size. He said the RC-1 zoning designation is not subject to the clustering provisions. He said the “footprint” will remain the same as the 1995 project but they want these to be townhouse lots. He talked about the requested bike path easement but questioned whether they could do that or not through dedicated park.</p> <p>Hines asked how many lots have been sold that might be affected by bike path easement.</p> <p>Fraser replied and referred to the map.</p>
AGENCIES	None present.
PUBLIC COMMENT	None.
STAFF REBUTTAL	None.
APPLICANT REBUTTAL	None.
MAIN MOTION	Dziza made a motion seconded by DeKort to adopt Staff Report FPP 06-19 as amended and recommended approval to the County Commissioners.
BOARD DISCUSSION	<p>Robertson talked about the bike path. She said she didn’t think it would interfere with anyone’s private property if it were placed along Chapman Hill Rd.</p> <p>The Board further discussed the bike path easement.</p>
MOTION <i>To add bike path easement</i>	<p>Robertson made a motion seconded by Hines to require a 15-ft bike path easement along the lot that fronts Chapman Hill Rd.</p> <p>This motion was withdrawn.</p>
MOTION <i>To add bike path easement</i>	Hines made a motion seconded by Robertson to require a bike path easement.
ROLL CALL <i>To add bike path easement</i>	On a roll call vote the motion failed 4-4 with Lapp, Dziza, Toavs, and Larsen dissenting.
BOARD DISCUSSION	<p>Dziza asked Fraser about the clustering provisions in the zoning regulations.</p> <p>Fraser said the clustering regulations don’t apply to RC-1 at all.</p>

Dziza asked Grieve his opinion.

Grieve said Fraser had some good points about the ownership of the common area and said you would probably have to get permission of the partial owners of the park to get a bike path easement.

Cross asked Grieve what would happen if the Board were to pass this proposal with the bike path easement condition and someone wouldn't give their permission.

Grieve said amendments to subdivision conditions usually go directly to the Commissioner's for action.

Lapp asked Fraser about the current conditions and said they look like they've pretty much been met.

Fraser said they are basically ready to go through with final plat because everything's already in place.

Hines asked how many of the sold lots have been sold to developers.

Fraser said they all have houses on them.

MOTION
Condition #9

Lapp made a motion seconded by Dziza to request the applicant make every possible effort to establish a 15-ft bike path easement along the common area adjacent to Chapman Hill Rd.

ROLL CALL
Condition #9

On a roll call vote the motion passed unanimously.

MAIN MOTION
ROLL CALL

On a roll call vote the motion passed unanimously.

**ZONE CHANGE/
EVERGREEN
WATER & SEWER
FZC 06-12**

A Zone Change request in the Evergreen and Vicinity Zoning District by Evergreen Water and Sewer District from R-1 (Suburban Residential) to R-2 (One-Family Limited Residential). The property is located at 2596 and 2598 Mission Trail and contains 1.485 acres.

STAFF REPORT

Rebecca Shaw reviewed Staff Report FZC 06-12 for the Board.

**BOARD
QUESTIONS**

Cross asked Staff to point out the big drop-off on the map.

Staff told the Board she received one neighborhood comment, which was passed out to each member before the meeting.

APPLICANT

Andy Hyde, of Carver Engineering, represented the applicant. He displayed a C.O.S. for the Board's review. He gave the Board some history about the water storage tank. He said it's the only tank in the district and this proposal would allow for another tank to be installed

next to the existing one. He mentioned a neighbor who has agreed to sell the district a portion of his property for this project. He said all the homes in the Mission Subdivision were put in place after the existing water storage tank. He said the district would like to repaint the old tank but they can't because it's the only tank. An additional tank would allow them to paint and perform maintenance on the old tank. He said this is a good place for an additional tank because it's already an accepted use. He said to request a tank in another location would probably result in opposition from the public. He briefed the Board on the conditions placed on the Conditional Use Permit previously approved by the Board of Adjustment.

Hines asked why an agreement wasn't made with the City of Kalispell and asked about the possibility of an underground tank as to not further affect the aesthetic view.

Hyde said they considered an underground tank but explained the reason they are proposing another above-ground tank similar to the existing one. He gave the Board a technical analysis of why an underground tank wouldn't work.

AGENCIES

None.

PUBLIC COMMENT

BJ Carlson, 2620 Mission Trail Way, had questions about the landscaping and referenced the R-2 zoning regulations.

STAFF REBUTTAL

None.

**APPLICANT
REBUTTAL**

None.

MAIN MOTION

Dziza made a motion seconded by Cross to adopt FZC 06-12 as findings of fact and recommended approval to the County Commissioners.

**BOARD
DISCUSSION**

Toavs asked about conditions.

Larsen said you can't condition a zone change; you either have to vote to approve or deny.

**MAIN MOTION
ROLL CALL**

On a roll call vote the motion passed 5-3 with Hines, Robertson, and DeKort dissenting.

**PRELIMINARY
PLAT/JOSHUA
ACRES
FPP 06-23**

A request by Dennis Wagar and Alice Motichka for Preliminary Plat approval of Joshua Acres, a ten (10) lot single-family residential subdivision on 40.191 acres. All lots in the subdivision are proposed to have individual water and septic systems. The property is located East of US Highway No. 2.

STAFF REPORT

Rebecca Shaw reviewed Staff Report FPP 06-23 for the Board.

**BOARD
QUESTIONS**

DeKort asked about the internal subdivision and the access road.

Staff pointed them out on a map.

DeKort asked about the septic and wells and pointed out a correction to be made on the Staff Report as there will be no community water system.

Staff noted the correction.

APPLICANT

Erica Wirtala, of Sands Surveying, represented the applicant and said they were in the audience and available for questions. She talked about Environmental Health's recommendation to pave the access road but said the subdivision regulations don't require it. She said the applicant plans to pave the access road but said that's going "above and beyond". She talked about the establishment of a bus stop and had some concerns. She said it may be an unobtainable condition because the applicant doesn't own the land where the Superintendent of Schools is requesting it be located.

AGENCIES

None present. Three comment letters were received from the Superintendent of Schools, Flathead County Environmental Health, and the Marion Fire Department.

PUBLIC COMMENT

None.

STAFF REBUTTAL

None.

**APPLICANT
REBUTTAL**

None.

MAIN MOTION

DeKort made a motion seconded by Toavs to adopt Staff Report FPP 06-23 as findings of fact as amended and recommended approval to the County Commissioners.

**MOTION
*Add Condition #13***

Hines made a motion seconded by Robertson to add Condition #13 to require the developer to install a community water system.

**BOARD
DISCUSSION**

Hines explained the reasoning behind his motion.

Cross asked questions about public water systems vs. community water systems.

Larsen explained the difference. He said it's based on the number of users not the number of lots. 25 or more users constitute a public water system.

**ROLL CALL
*Add Condition #13***

On a roll call vote the motion passed 6-2 with Lapp and Larsen dissenting.

MOTION
Add Condition #14

Robertson made a motion seconded by DeKort to add condition #14 to state The subdivider shall pay a parkland fee equivalent to the value of 40.191 acres of the unimproved, undivided land. The subdivider shall provide a current appraisal from a certified MAI appraiser no sooner than six months prior to the final plat application to set the baseline value of the parkland cash donation. [Section 3.19(C)(2)(a); Section 3.19 (D)(1), FCSR].

ROLL CALL
Add Condition #14

On a roll call vote the motion passed unanimously.

BOARD
DISCUSSION

Lapp talked about Condition #2 in regards to road easements.

MOTION
Amend Condition #2

Lapp made a motion seconded by Dziza to amend condition #2 to read: The internal subdivision road and access road shall be paved and all roads being constructed shall meet the requirements of FCSR 3.9 Table 1.

BOARD
DISCUSSION

Charles said he was concerned with the size of the easement.

Cross recommended the Board specify the internal subdivision/access road in the motion.

Lapp revised his motion.

Lapp talked about condition #2 and the fact the road is a private road.

Hines talked about the EPA in regard to dust.

ROLL CALL
Amend Condition #2

On a roll call vote the motion passed unanimously.

MAIN MOTION
ROLL CALL

On a roll call vote the motion passed unanimously.

OLD BUSINESS

Lapp compared two Staff Reports and talked about recommendations and why Staff sometimes doesn't give one.

Harris said in some cases staff wont give a recommendation.

Larsen asked why.

Harris said sometimes Staff doesn't feel comfortable making a recommendation. Sometimes they like the project, sometimes not, and sometimes there's middle ground.

Hines brought up the upcoming meeting agendas and talked about trying to work in Riverdale. He asked questions about the Growth Policy schedule for July and August.

**OLD BUSINESS
CONTINUED**

Harris said the Subdivision Rewrite is “wrapping up”. He talked with the Riverdale group this afternoon about going back through the plan. They started with the land use map and are moving on to the text. He said they made significant progress today, looking at the map for the plan, and is going to have several more sit-downs. Harris said all the applicants will be there. He asked if any Board members wanted come next Wednesday @ 3 p.m. to sit in.

DeKort, Hines, Dziza, and Cross said they would like to participate

Harris talked about what he would like to accomplish at the meetings. He said they would like to bring some vocal members of the public on board and possibly get another workshop scheduled before the Planning Board. He said the Board doesn’t need to feel pressured to take action because they may need time to digest the comments.

Cross asked about the difference between a workshop and public hearing.

Harris said they are very separate entities and explained the proceedings that happen at both a workshop and a public meeting. He said a workshop is less formal where the Board can talk amongst themselves and also involve the public. After workshops, comes the public hearing.

Cross asked if the applicants have the opportunity after a workshop to potentially revise the plan again based on Board comments.

Harris said absolutely. He said Staff will be assisting the Riverdale group on the planning portion.

Hines asked if the applicants are going to hold a public open house for members of the public and neighbors.

Harris said the public workshops should be sufficient. He said we would put a notice in the paper and possibly send out notice to adjoining landowners as a courtesy.

Hines asked about the possibility of having the applicants do a site visit with the Board members.

Harris said that’s a good idea and thinks the applicants would be more than willing to do that. He said that could be discussed at next Wednesday’s meeting with the applicant’s.

Toavs asked if all the members could go on a site visit at the same time or if they would have to go in two separate groups because of the quorum issue.

**OLD BUSINESS
CONTINUED**

The Board talked about the best way to go about that in regards to the quorum issue.

Harris said he would check with the County Attorney and talk with the applicants.

Toavs asked about the Board's function regarding the Riverdale neighborhood plan.

Harris said the Board's role is ultimately to pass a recommendation to the County Commissioners by holding public workshops and holding public hearings. He said they should also take a look at the plan and address any concerns they may have. He said they can make changes to the plan if necessary; they don't have to accept it "as is." He said Staff is working with the applicant and the public to help facilitate the plan to be able to bring it to the Board in the best possible order.

Toavs asked Grieve if there will be a section on neighborhood plans in the new master plan. He asked if there is anything in the current master plan.

Grieve said there's nothing in the existing master plan however, about six months ago, an interim guidance document was set up and approved by the Planning Board. He said Staff would get a copy of that document to the Board.

Harris said this document came about to guide master plan amendments during a time the Commissioners were talking about placing a moratorium while the new growth policy was in the works.

Cross would like to find a way to get away from highly-charged public meetings. He would like the developers to communicate with the public prior to these meetings so that real dialogue takes place; he feels this would provide less animosity. The developer would have a chance to consider public comments and take them into consideration prior to Board meetings and people would feel like their voices were heard.

Grieve talked about master plan amendments and neighborhood plans. He said they are being linked in people's minds as being one-in-the-same, which is not correct. He said the line between the two has become blurred. He said there are 13 existing neighborhood plans, some of which were created many years ago.

Robertson understood neighborhood plans to be an addendum to the Master Plan.

**OLD BUSINESS
CONTINUED**

Grieve explained that an amendment is a change in the land use classification. He said they are hoping the new document will work more with goals and policies to deal with this kind of stuff.

Harris talked about the new growth policy and neighborhood plans. He said these plans will be incorporated into the new growth policy.

Larsen clarified what Cross was trying to say and asked if there is a solution so people don't keep coming to Board meetings mad at each other.

Harris said workshops or open houses could be held to solicit comments prior to the public hearing.

Larsen said the Board shouldn't have to fix these projects. If there are issues that need to be addressed, the plan should be sent back. He said it should be ready for "primetime" before the Board even sees it.

Harris said that would be a good topic to bring up in new business.

Dziza talked about the challenges of public hearings. He talked about the Riverdale project and said the Board's first task should be to identify the concerns to be able to come up with solutions.

Harris said the Riverdale plan is the last plan that will come through like this. He said as a part of the new growth policy, projects will not come before the Board until a consensus has been reached; it will be a very public process. The Planning office will be working with people outside of the Board's hearings working with area residents. He said in the past there hasn't been much of a public process, which is something Staff is trying to improve.

Hines asked if any of the new process could be implemented with the Riverdale plan.

Harris said Staff could hold workshops instead of the Board if that's what they wanted.

Cross said he's not opposed to having workshops. He thinks the applicants should communicate with the public.

Grieve said they did hold an "open house" for the public at the Majestic Valley Arena.

Cross asked if that was before or after the Board meeting.

Grieve said it was held before.

**OLD BUSINESS
CONTINUED**

Harris talked to the Board about having Staff set up meetings regarding Riverdale. Staff would let the Board members know when the meetings are so they have the chance to attend.

Dziza asked Mayre Flowers her opinion on the best way for people to interact and to be creative.

Flowers applauded the idea of pre-meetings facilitated by the Planning Staff. She said the public should also be able to meet with Staff without the applicant so they feel like it's safe to ask questions. She talked about the meetings the applicants held and said they were excluded. She liked the idea of having an "open house" at the Majestic and likes creative ideas.

Hines mentioned the week of August 14th needs to remain open because of the County Fair. He said a lot of the applicants participate in the fair.

The Board and Staff discussed dates for Riverdale meetings and workshops.

Toavs asked if the Board could really even consider a plan like this without the new growth policy being done. He thinks the plan should be put on hold.

Lapp talked about the letter from Commissioner Hall. He talked about the growth policy and the elements that need to be included. He wanted to make sure everyone wasn't wasting their time putting something together the Commissioners may not even like.

Harris said Staff doesn't even know what exactly the Commissioners want. He talked about neighborhood plans in regard to the new growth policy. He said people who live within those plans don't want them to go away. Staff will work with them and get them into compliance. He said the draft growth policy will be out while they are working on the Riverdale plan and discussed some options on how to move this plan along.

Larsen asked if there was an agreement with the Riverdale folks that their plan would be processed under the old rules.

Harris said they set up a target date of 120 days. He said Staff has continued to process their plan in good faith.

Toavs talked about neighborhood plans being more general than specific. He talked about the infrastructure, phasing, and highways planned for Riverdale. He said Commissioner Brenneman voted to send this back to the Board because he couldn't support any master plan amendments until the new growth policy is done. He said unless Commissioner Watne will go one way or the other they aren't going to pass it anyway so why should the Board do all this work until after

**OLD BUSINESS
CONTINUED**

the policy is done; that way it would comply.

Harris said Staff has been working with the applicants; it's a very slow process.

Larsen said a lot of money and time is put into these things. He said the applicants operated under good faith and expect a follow through. He said no one in the room would feel good if they put a lot of work into something and then "had the rug pulled out from under them."

Lapp mentioned the comment from Commissioner Brenneman, which stated this plan should wait until the new growth policy. He agreed with Larsen and understands what Toavs was saying about putting in a lot of work for nothing.

Larsen said he understands what Toavs is saying but he thinks what the Commissioners said should have come out a long time ago not after countless hours have been put into this plan.

Harris said he spoke with the Riverdale applicants many times about voluntarily holding off until the growth policy is done.

Toavs said putting the Riverdale plan on hold will cost the applicant's a lot more in attorney fees because of rewriting the plan.

Harris said he's been working with the Riverdale applicants and are going to help them reconfigure the plan. He's been giving the applicants input along the way and said it's Staff's job to help draft the plan and work with the public. He said Staff has no vested interest in this except that it's their job to help come up with the best possible product because it's something the County is going to potentially adopt. He wants to come up with plans that are, through consensus and public involvement, the best fit for the neighborhood.

Cross thinks the most contentious issues the County and the Board are going to face are all wrapped up in Riverdale. He said in the process of having public discussions at the Majestic Valley Arena, or wherever, there will be a chance to "air" issues in an atmosphere that's conducive to building some sort of consensus. He said while working on Riverdale, Staff would also be doing some of the "heavy lifting" for the growth policy.

Dziza said there's frustration on all sides of the issue partially due to the workload. He talked about the way Staff suggested doing public workshops and said the Planning Board needs to stay involved.

Harris asked the Board if they wanted to hold public workshops or have Staff bring them a "product." He said either way, the Board will stay involved.

**OLD BUSINESS
CONTINUED**

Dziza said if there's a good process for communicating the concerns to the Board he would be happy with Harris's suggestion and said Board members would have the opportunity to attend any of those meetings.

Hines agreed with Dziza and said the Board has already shown interest. He commented about the four people who wanted to attend next week's Riverdale meeting.

Dziza said perhaps you could get more dialogue in a casual atmosphere rather than at the public hearings.

Harris said next week's Riverdale meeting will be with Staff, the applicants, and several members of the public.

Grieve said they are going to try to get a draft of the new Growth Policy together by June 30. He said Staff would be presenting this information to the public again, like they did in the beginning. He said there will be public workshops in July that will involve the Board. He said they could have these meetings on July 13, 20, and 26 if that works for the Board. The Board will have had the chance to review the draft and bring up questions, comments, concerns, etc.

The Board confirmed the July dates.

Grieve said the Board will have a draft copy to look over and make comments.

The Board and Staff discussed the growth policy workshops and who will be involved.

Grieve said the public can read the draft while Staff is holding various meetings and will have a chance to voice their comments. He continued to talk about upcoming meetings for the growth policy and what the meetings will entail.

The Board and Staff further discussed the meeting dates.

NEW BUSINESS

Hines asked if there's any fallback if they get too backed up.

Harris said applications are already scheduled for meetings through August. He reminded the Board they can send recommendations to the Commissioners that don't necessarily have to do with agenda items.

Larsen talked about the workload in relation to legislation passed regarding subsequent minor subdivisions.

Harris said that will change when the new Subdivision Regulations are in place.

**NEW BUSINESS
CONTINUED**

Cross asked Staff if it would free up time to stop accepting applications.

Grieve said the applications are already booked through August.

Harris said we are scheduled with applications through September. He said Staff would have to give surveyors a “heads up” but that’s probably not going to happen. He said he understands if the Board feels they’re reviewing too many applications to do an adequate job; Staff is dealing with the same challenge. He said he would rather have more time to review applications and get a better recommendation to the Board but unfortunately something has to give and unfortunately that’s a little bit of quality.

Grieve briefed the Board on the workload of a planner over the course of the three months to give them an idea of how much each person is doing.

The Board and Staff discussed Board meetings in general.

Harris told the Board they shouldn’t have to fix each subdivision that comes along. He said a lot of time is taken up.

Harris said Staff is always looking at ways to change things and do a better job and he said he understands the other “side of the fence.”

The Board and Staff discussed, at length, applications, public meetings, pre-application meetings, sufficiency/completeness of applications, and staff reports. They discussed ways to save time at meetings while still presenting key points.

ADJOURNMENT

The meeting was adjourned at approximately 9:30 p.m. on a motion by Hines seconded by Robertson. The next meeting will be held on June 14, 2006 @ 6 p.m.

Jeff Larsen, President

Jill Goodnough, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 7/12/06